

LOCAL CRIMINAL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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LCrR 1.1, formerly Local Rule 1:1.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 1.2, formerly Local Rule 1:1.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 5.1, formerly Local Rule 5:1.1 (effective 1/1/92; revised 3/3/93, 8/10/93); revised and renumbered 4/7/97.

LCrR 5.2, formerly Local Rule 5:1.2 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97.

LCrR 5.3, formerly Local Rule 5:3.1 (effective 1/1/92; revised 8/10/92); revised and renumbered 4/7/97.

LCrR 5.1.1, formerly Local Rule 3:3.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 6.1, formerly Local Rules 3:2.1 (effective 1/1/92) and 3:2.2 (effective 1/1/92); revised and renumbered 4/7/97.

LCrR 6.2, formerly Local Rule 1:3.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 10.1, formerly Local Rule 3:3.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 12.1, formerly Local Rule 3:7.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 16.1, formerly Local Rule 3:5.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 16.2, effective 6/5/00

LCrR 17.1.1, formerly Local Rule 3:3.3 (effective 1/1/92); renumbered 4/7/97.

LCrR 23.1, formerly Local Rule 1:3.6 (effective 1/1/92); renumbered 4/7/97.

LCrR 23.2, formerly Local Rule 1:3.8 (effective 1/1/92); revised and renumbered 4/7/97.

LCrR 24.1, formerly Local Rule 1:3.3 (effective 1/1/92); renumbered 4/7/97.

LCrR 24.2, formerly Local Rule 1:3.4 (effective 1/1/92); renumbered 4/7/97.

LCrR 24.3, formerly Local Rule 1:3.5 (effective 1/1/92); revised and renumbered 4/7/97.

LCrR 30.1, formerly Local Rule 1:3.7 (effective 1/1/92); renumbered 4/7/97.

LCrR 32.1, formerly Local Rule 3:8.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 32.2, formerly Local Rule 3:8.3 (effective 1/1/92; revised 6/9/92, 11/1/94); renumbered 4/7/97.

LCrR 32.3, formerly Local Rule 3:8.2 (effective 1/1/92); renumbered 4/7/97.

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LCrR 32.4, formerly Local Rule 3:8.4 (effective 1/1/92); renumbered 4/7/97.

LCrR 32.1.1, formerly Local Rule 3:8.5 (effective 1/1/92; revised 6/9/92); renumbered 4/7/97.

LCrR 46.1, formerly Local Rule 3:10.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 49.1, formerly Local Rule 1:2.1 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97; revised 01/01/00.

LCrR 49.2, formerly Local Rule 1:2.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 49.3, formerly Local Rule 1:2.3 (effective 1/1/92); revised and renumbered 4/7/97.

LCrR 49.4, formerly Local Rule 1:2.6 (effective 10/2/95); renumbered 4/7/97.

LCrR 53.1, formerly Local Rule 1:3.9 (effective 1/1/92); renumbered 4/7/97.

LCrR 55.1, formerly Local Rule 3:2.3 (effective 1/1/92); renumbered 4/7/97.

LCrR 55.2, formerly Local Rule 1:2.5 (effective 1/1/92); renumbered 4/7/97.

LCrR 56.1, formerly Local Rule 1:4.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.1, formerly Local Rule 3:4.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.2, formerly Local Rule 1:4.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.3, formerly Local Rule 1:4.3 (effective 1/1/92); renumbered 4/7/97; revised 4/6/98.

LCrR 57.4, formerly Local Rule 1:4.4 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.5, formerly Local Rule 1:5.1 (effective 1/1/92) and 3:6.1 (effective 1/1/92); revised and renumbered 4/7/97; revised 1/15/98; revised 6/4/01.

LCrR 57.6, formerly Local Rule 1:5.3 (effective 1/1/92); revised and renumbered 4/7/97.

LCrR 57.7, formerly Local Rule 1:5.2 (effective 1/1/92); renumbered 4/7/97; revised 08/10/98; revised 6/5/00.

LCrR 57.8, formerly Local Rule 1:5.4 (effective 5/9/95); renumbered 4/7/97.

LCrR 57.9, formerly Local Rules 1:2.4 (effective 1/1/92; revised 12/15/92, 3/3/93, 5/5/93, 5/9/95), 6:1.1 (effective 1/1/92), and 6:2.5 (effective 1/1/92; revised 3/3/93, 5/9/95); revised and renumbered 4/7/97; revised 08/10/98, revised 04/02/02.

LCrR 57.10, formerly Local Rule 6:1.2 (effective 1/1/92; revised 5/9/95); renumbered 4/7/97.

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LCrR 57.11, formerly Local Rule 6:1.3 (effective 1/1/92; revised 7/10/95); revised and renumbered 4/7/97.

LCrR 57.12, formerly Local Rule 6:1.4 (effective 1/1/92; revised 7/10/95, 6/3/96); revised and renumbered 4/7/97; revised 10/20/97.

LCrR 57.13, formerly Local Rule 6:1.5 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.14, formerly Local Rule 6:2.2 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.15, formerly Local Rule 6:2.3 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.16, formerly Local Rule 6:2.1 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.17, formerly Local Rule 6:2.7 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.18, formerly Local Rule 6:2.6 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.19, formerly Local Rule 6:1.6 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.20, formerly Local Rule 6:2.8 (effective 1/1/92); renumbered 4/7/97.

LCrR 57.21, effective 6/5/00

LCrR 58.1, formerly Local Rule 5:1.2 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97.

LCrR 58.2, formerly Local Rule 5:1.3 (effective 1/1/92); renumbered 4/7/97.

LCrR 58.3, formerly Local Rule 5:3.1 (effective 1/1/92; revised 8/10/92); revised and renumbered 4/7/97.

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LOCAL CRIMINAL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CHAPTER I
SCOPE, PURPOSE AND CONSTRUCTION

Rule 1.1 Scope and Citation

(a) **Scope of the Rules.** Pursuant to Fed. R. Crim. P. 57, the following Local Criminal Rules for the United States District Court, Northern District of Ohio, will hereafter control the conduct of criminal proceedings in this Court. Nothing in these Rules shall be construed in a manner inconsistent with the above cited Federal Rules of Criminal Procedure.

(b) **Citation.** These Rules shall be cited as "Local Criminal Rules" or abbreviated as "LCrR."

(c) **Effective Date.** These Rules shall apply to all cases pending in this district on or after the effective date of January 1, 1992.

(d) **Construction of Rules.** These Rules shall be construed to achieve an orderly administration of the business of this Court; to govern the practice of attorneys before this Court; and to secure the just, speedy and inexpensive determination of all litigation coming before this Court.

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Rule 1.2 Definitions

(a) "United States Attorney," unless otherwise indicated, shall also mean the Assistant United States Attorneys and Department of Justice Attorneys assigned to a case.

(b) Reference in these Rules to an "attorney" or "counsel" for a party is in no way intended to preclude a party from proceeding pro se, in which case reference to attorney or counsel applies to the pro se litigant.

(c) "Clerk" shall be interpreted to include the Clerk of the District Court and any Deputy Clerk.

(d) "Judge" shall be interpreted to mean all judicial officers, including District Judges and Magistrate Judges, unless specifically limited or the subject is directed to one of these Judicial Officers.

(e) "Court" means any United States District Judge, United States Magistrate Judge, or Clerk of Court personnel to whom responsibility for a particular action or decision has been delegated by the Judges of the United States District Court for the Northern District of Ohio.

CHAPTER II
PRELIMINARY PROCEEDINGS

Rule 5.1 Duties of United States Magistrate Judges

(a) **Additional Duties - 28 U.S.C. § 636(b)**. In addition to the powers and duties set forth in 28 U.S.C. § 636(a), the Magistrate Judges are hereby authorized, pursuant to 28 U.S.C. § 636(b), to perform any and all additional duties as may be assigned to them from time to time by any District Judge of this Court which are not inconsistent with the Constitution and laws of the United States.

(b) **Assignment of Duties**. The assignment of duties to Magistrate Judges by the District Judges of this Court may be made by standing order entered jointly by the District Judges of the Court; or by any individual District Judge, in any case or cases assigned to such District Judge, through written order or oral directive made or given with respect to such case or cases.

(c) **Authorized Duties**. The duties authorized to be performed by Magistrate Judges, when assigned to them pursuant to subsection (b) of this Rule, shall include, but are not limited to:

(1) Acceptance of criminal complaints and issuance of arrest warrants or summonses (Fed. R. Crim. P. 4);

(2) Issuance of search warrants, including warrants based upon oral or telephonic testimony (Fed. R. Crim. P. 41);

(3) Conduct of initial appearance proceedings for defendants, informing them of the charges against them and of their rights, and imposing conditions of release (Fed. R. Crim. P. 5);

(4) Conduct of initial proceedings upon the appearance of an individual accused of an act of juvenile delinquency (18 U.S.C. § 5034);

(5) Appointment of attorneys for defendants who are unable to afford or obtain counsel and approval of attorneys' expense vouchers in appropriate cases (18 U.S.C. § 3006A);

(6) Appointment of interpreters in cases initiated by the United States (28 U.S.C. §§ 1827 and 1828);

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(7) Direction of the payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances (18 U.S.C. § 4285);

(8) Setting of bail for material witnesses (18 U.S.C. § 3144);

(9) Conduct of preliminary examinations (Fed. R. Crim. P. 5.1 and 18 U.S.C. § 3060);

(10) Conduct of initial proceedings for defendants charged with criminal offenses in other districts (Fed. R. Crim. P. 40);

(11) Administration of oaths and taking bail, acknowledgments, affidavits and depositions (28 U.S.C. § 636(a)(2));

(12) Conduct of full extradition proceedings (18 U.S.C. § 3184); and

(13) Discharge of indigent prisoners or persons imprisoned for debt under process of execution issued by a federal court (18 U.S.C. § 3569 and 28 U.S.C. § 2007).

(d) Disposition of Misdemeanor Cases - 28 U.S.C. § 636(a)(3) & (4) and 18 U.S.C. § 3401. A Magistrate Judge may:

(1) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this District in accordance with 18 U.S.C. § 3401 and pursuant to Fed. R. Crim. P. 58;

(2) Direct the Probation Office of the Court to conduct a presentence investigation in any misdemeanor case;

(3) Conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States; and

(4) Conduct any necessary hearings upon applications to revoke probation and enter final orders when such probation was imposed by a Magistrate Judge after conviction of a misdemeanor.

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(e) Determination of Non-Dispositive Pretrial Matters - 28 U.S.C. § 636(b)(1)(A).

A Magistrate Judge may hear and determine any procedural or discovery motion or other motion or pretrial matter in a criminal case, other than the motions which are specified in subsection (f) of this Rule.

(f) Recommendation Regarding Case-Dispositive Motions - 28 U.S.C. § 636(b)(1)(B).

(1) A Magistrate Judge may submit to a District Judge of this Court a report containing proposed findings of fact and recommendations for disposition by the District Judge of the following pretrial motions in criminal cases:

- (A) Motions to dismiss or quash an indictment or information made by a defendant;
- (B) Motions to suppress evidence;
- (C) Applications to revoke probation, including the conduct of the final probation revocation hearing; and
- (D) Applications for post-trial relief made by individuals convicted of criminal offenses.

(2) A Magistrate Judge may determine any preliminary matter and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this subsection.

(g) Additional Duties - 28 U.S.C. § 636(b)(3). A Magistrate Judge of this Court is also authorized to:

- (1) Exercise general supervision of criminal calendars, including the handling of calendar and status calls, and motions to expedite or postpone the trial of cases for the District Judges;
- (2) Conduct pretrial conferences, omnibus hearings, and related pretrial proceedings in criminal cases;
- (3) Conduct post-indictment arraignments and accept not guilty pleas;
- (4) Receive Grand Jury returns in accordance with Fed. R. Crim. P. 6(f);

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(5) Accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b);

(6) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for Court proceedings;

(7) Order the exoneration or forfeiture of bonds;

(8) Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;

(9) Conduct preliminary hearings in probation violation proceedings;

(10) Perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109 regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

(11) Conduct removal proceedings in accordance with Fed. R. Crim. P. 40, and issue all necessary orders incident thereto;

(12) Hear motions and enter orders for examinations to determine mental competency (18 U.S.C. §§ 4241-4248);

(13) Authorize installation of pen registers, trap and trace devices (and issue orders to assist), beeper devices (transponders), clone beepers, and the like;

(14) Serve as a member of this District's Speedy Trial Act Planning Group, including service as the reporter (18 U.S.C. § 3168);

(15) Supervise this Court's Criminal Justice Act plan;

(16) Coordinate the Court's efforts in such areas as the promulgation of local rules and procedures;

(17) Supervise proceedings on requests for letters rogatory in criminal cases upon special designation by the Court as required under 28 U.S.C. § 1782;

(18) Hear and determine applications for admission to practice before this Court;
and

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(19) Perform any additional duty as is not contrary to the law of this District and Circuit or inconsistent with the Constitution and laws of the United States.

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Rule 5.2 Assignment and Referral of Matters to United States Magistrate Judges

(a) **General.** The method for assignment of duties to a Magistrate Judge and for the allocation of duties among the several Magistrate Judges of this Court shall be made in accordance with orders of the Court or by special designation of a District Judge.

(b) **Felony Cases.** Upon the return of an indictment or the filing of an information, all felony cases may be referred by the Court to a Magistrate Judge for the conduct of an arraignment and such other conferences or hearings as are necessary as provided in Local Criminal Rule 5.1(c).

Rule 5.3 Review and Appeal

(a) **Appeal of Non-Dispositive Matters - 28 U.S.C. §636(b)(1)(A).** Any party may appeal from a Magistrate Judge's order determining a motion or matter under Local Criminal Rule 5.1(c) and (e) within ten (10) days after service of the Magistrate Judge's order. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. The District Judge to whom the case was assigned shall consider the appeal and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. The District Judge may also consider sua sponte any matter determined by a Magistrate Judge under this Rule.

(b) **Review of Case-Dispositive Motions - 28 U.S.C. § 636(b)(1)(B).** Any party may object to a Magistrate Judge's proposed findings, recommendations or report under Local Criminal Rule 5.1(f) within ten (10) days after being served with a copy thereof, and failure to file timely objections within the ten (10) day period shall constitute a waiver of subsequent review, absent a showing of good cause for such failure. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations, or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof. The District Judge to whom the case was assigned shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge need conduct a new hearing only in such District Judge's discretion or where required by law, and may consider the record developed before the Magistrate Judge, making a determination on the basis of the record. The District Judge may also receive further evidence, recall witnesses or recommit the matter to the Magistrate Judge with instructions.

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Rule 5.1.1 Record of Preliminary Hearings

All proceedings before the Magistrate Judge shall be recorded. Such record shall be filed with the Clerk of Court and transcribed and released to the Court upon order or to the United States Attorney or defense attorney upon request, following the procedures set forth in Local Criminal Rule 57.20, and payment of the appropriate fees.

**CHAPTER III
INDICTMENT AND INFORMATION**

Rule 6.1 Grand Jury

(a) **Impanelment.** The Chief Judge or designate shall be responsible for the impaneling of the Grand Jury.

(b) **Supervision.** The Miscellaneous Docket Judge shall have supervision of the Grand Jury and all matters arising therefrom.

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Rule 6.2 Venire Selection

The random selection of grand and petit jurors for service in this Court is provided for in a plan adopted by the Court in compliance with the requirements and provisions of the Jury Selection and Service Act of 1968, 28 U.S.C. § 1861, et seq. The plan is available for inspection at the office of the Clerk.

CHAPTER IV
ARRAIGNMENT AND PREPARATION FOR TRIAL

Rule 10.1 Notification for Arraignment

The Clerk, upon notification by the Court, shall inform the defendant or his or her attorney, if known, and the United States Attorney, of the date for arraignment, as well as all other Court proceedings requiring the presence of the defendant or counsel.

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Rule 12.1 Pretrial Motions and Proposed Jury Instructions

All pretrial motions and proposed jury instructions and other pleadings shall be filed with a brief written statement of the reasons in support of the motion and a list of the authorities on which the movant relies.

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Rule 16.1 Discovery

No material subject to discovery under Fed. R. Crim. P. 16, or copies thereof, shall be sent to the Court prior to trial or a finding of guilt, except under seal and with the request that it remain sealed, unless the Court, in a particular case, should issue an order to the contrary.

Rule 16.2 Corporate Disclosure Statement

Any non-governmental corporate party to a proceeding must file a statement identifying all its parent, subsidiary and other affiliate corporations and listing any publicly held company that owns 10% or more of the party's stock. A party must file the statement upon filing a complaint, answer, motion, response or other pleading in this Court, whichever occurs first. The obligation to disclose any changes will be continuing throughout the pendency of the case.

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Rule 17.1.1 Standard Pretrial Order

At the time of arraignment, or no later than the first pretrial, the Court shall issue orders setting forth deadlines for the following:

- (a) Completion of discovery;
- (b) Filing of pretrial motions;
- (c) Filing of responses to pretrial motions;
- (d) Filing of proposed voir dire questions; and
- (e) Filing of proposed jury instructions.

CHAPTER V
TRIAL

Rule 23.1 Juror Note-Taking

Jurors may be permitted to take notes, in the discretion of the Judge. If allowed to take notes, the Court will provide jurors with the necessary materials.

Rule 23.2 Models, Exhibits, Etc.

(a) **Lodging of Exhibits.** Neither the index of exhibits nor any exhibit, model, etc. which has been lodged with the Office of the Clerk shall be considered public record until admitted into evidence at the trial.

(b) **Marking of Exhibits.** All exhibits must bear the official case number and shall be marked before trial with official exhibit stickers which are available upon request from the Clerk. The plaintiff shall mark exhibits with numbers and the defendant shall mark exhibits with letters, unless otherwise ordered by the Court. Joint exhibits shall be marked with numbers. If there are multiple defendants, letters shall be used followed by the party's last name. If the defendant has more than 26 exhibits, double letters shall be used.

Where a multiple-page exhibit is introduced, multiple pages should be numbered consecutively.

An index of the exhibits to be used at trial, along with a brief description of such exhibits, shall be filed with the Court and served upon opposing counsel no later than the morning of the trial.

(c) **Retention and disposal of exhibits.**

(1) **Retention of exhibits by counsel.** All models, diagrams, and exhibits of material filed or placed in the custody of the Clerk of Court for inspection of the Court on the hearing of a cause shall be taken by the party presenting the model, diagram, or exhibit at the conclusion of the hearing unless a party should object and request that the item be retained by the Clerk of Court and the Clerk is so ordered by the Court in writing. It shall be the responsibility of the party offering the model, diagram, or exhibit to maintain the offered or accepted exhibits until after the entry of final judgment or final judgment on appeal on matters appealed, whichever is later, unless directed otherwise by the Court. Upon motion of either party and/or the Court's order, when a demonstrative exhibit is retained by counsel, a picture or other paper record must be substituted for the exhibit.

(2) **Disposal of exhibits by the Clerk.** When an exhibit is retained in the custody of the Clerk of Court, it shall be removed by counsel within two (2) months after entry of final judgment or final judgment on appeal. All exhibits not removed by counsel shall be disposed of by the Clerk as waste at the expiration of the withdrawal period.

Rule 24.1 Jury Questionnaires

(a) The Court may distribute to all prospective jurors a questionnaire, in the form attached as Appendix A. If utilized, the questionnaire shall be sent to the jurors with their notice to report and shall be completed and returned by them.

(b) Upon motion for good cause shown, or upon the Court's own motion, the Court may distribute another juror questionnaire designed specifically for the case at issue.

(c) Unless otherwise ordered, both questionnaires referred to in this Rule shall be made available for all counsel on the last business day before the trial.

(d) (1) Questionnaires will be available to counsel for the limited purpose of assisting their preparation for voir dire. They are not otherwise to be used, copied, or disclosed without Court order. Upon selection of a jury, all questionnaires shall be returned to the Clerk. Contact prior to trial by any counsel, party, or any person acting on behalf of any counsel or party with any prospective juror is absolutely forbidden. Noncompliance with this directive or any other limitation imposed with reference to the disclosure or use of the questionnaires will lead to contempt of Court citation and other appropriate sanction.

(2) The language contained in subsection (d)(1) above must appear prominently on the first page of any questionnaire governed by this Rule.

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Rule 24.2 Voir Dire of Jurors

(a) The Court shall conduct the initial examination of all prospective jurors touching upon their qualifications to serve as jurors in the pending proceeding. The parties may submit written questions to be included in the Court's examination, subject to the Court's discretion.

(b) In all trials, civil and criminal, counsel for the plaintiff and counsel for the defendant each may be allowed such period of time as approved by the Court to conduct voir dire examinations of prospective jurors. In cases involving more than one defendant, the time for voir dire shall be divided by counsel for the parties and additional time shall not be allowed, except that the Court in its discretion may allow additional time. Except where otherwise ordered by the Court, the jurors shall be examined collectively.

Rule 24.3 Jury Selection

(a) **Exercise of Peremptory Challenges.** Except where the Judge has directed prior to the commencement of the examination of trial jurors that a different procedure shall be followed, peremptory challenges to which each party may be entitled under Fed. R. Crim. P. 24(b) shall be exercised in the following manner:

GOVERNMENT	DEFENSE
1	2
1	2
1	2
1	2
1	2
1	-

(b) **Effect of Passing a Peremptory Challenge.** In all cases, if either party passes a peremptory challenge, the pass shall be treated as if the challenge had been exercised, but shall not constitute a waiver of subsequent challenges to the jurors, including those impanelled ("in the box") prior to the pass. However, in the event all parties consecutively pass the use of a peremptory challenge, the jury as then constituted will be sworn as the jury for the case.

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Rule 30.1 Jury Charge

At the conclusion of the evidence, the charge given to the jury at that time may be reduced to writing and provided to the jurors.

**CHAPTER VI
JUDGMENT**

Rule 32.1 Pre-Plea Presentence Report

Except as permitted by the Pretrial Services Act, 18 U.S.C. § 3152, et seq., which governs reports and information relating to pretrial supervision of defendants, no presentence investigation shall be authorized until the entry of a plea of guilty or nolo contendere or a finding of guilt has been made, unless ordered by the Court consistent with Fed. R. Crim. P. 32(c)(1).

Rule 32.2 Presentence Report and Sentencing Proceedings

(a) **Order for Presentence Report.** At such time as the Court orders a Presentence Report, it shall set a sentencing date not less than seventy (70) days from the date the plea or conviction of guilty is entered. The defendant shall then report to the Probation Officer. Counsel for the defendant shall notify the Probation Officer if the defendant is in custody. Counsel for the defendant shall also notify the Probation Officer if counsel wishes to be present during interviews of the defendant conducted by the Probation Officer. The Probation Officer shall inform the defendant in advance of the interview that he or she has the right to have counsel present during presentence interviews.

(b) **Disclosure Procedures.**

(1) Not less than thirty-five (35) calendar days prior to the date set for sentencing, the Probation Officer shall disclose the Presentence Report to the defendant, counsel for the defendant, and the United States Attorney (the parties).

Pursuant to Fed. R. Crim. P. 32(b)(6)(A), effective December 1, 1994, the Northern District of Ohio hereby directs that the Probation Officer shall in no case disclose the Probation Officer's recommendation, if any, on the sentence.

The Presentence Report shall be deemed to have been disclosed three (3) days after a copy of the report is mailed to the defendant, counsel for the defendant and the United States Attorney.

The Presentence Report is not to be disclosed to anyone other than the defendant, counsel for the defendant, and the United States Attorney.

(2) Within fourteen (14) days of disclosure of the Presentence Report, the parties shall, in writing, provide the Probation Officer with any objections they may have as to any material information or sentencing guideline information contained in or omitted from the report, or with notice that there are no objections.

(3) The Probation Officer shall consider the objections, conduct any necessary investigation, and revise the Presentence Report, if appropriate. Further, a statement setting forth unresolved objections, if any, including the Probation Officer's comments on the unresolved objections, shall be prepared.

(4) Not later than seven (7) days prior to sentencing, the Probation Officer shall submit the Presentence Report and the statement of unresolved objections, if any, to the

Local Criminal Rules -- Northern District of Ohio

sentencing Judge, and shall provide to the parties, in the same manner as in subsection (b)(1) of this Rule, the revised report, and statement of unresolved objections.

(5) The Court, upon motion of either party, or of the Probation Office, may modify the time requirements, subject to the provisions of 18 U.S.C. § 3552(d).

(c) Position of Parties With Respect to Sentencing Factors. No later than seven (7) days prior to sentencing, the parties shall file with the Court any information required by the Court, and any information the parties intend to rely upon at the time of sentencing.

Copies of all sentencing information filed by any party shall be contemporaneously served upon all other parties and upon the Probation Officer.

(d) Hearing on Unresolved Objections. The Court, for good cause shown, may allow a new objection to be raised at any time before imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the Probation Officer or the parties.

(e) Presentence Report as Part of the Record.

(1) The Presentence Report shall be placed by the Clerk in the record under seal.

(2) The Clerk shall provide the Probation Officer with the Court's statement of reasons and the Court's finding on unresolved objections, and copies of any other documents pertinent to sentencing placed in the record during the sentencing hearing.

(3) Copies of the Presentence Report provided to the Bureau of Prisons by the Probation Officer shall include the Court's findings on unresolved objections.

(4) The Court's statement of reasons for the sentence shall accompany the Judgment Order to the Bureau of Prisons.

(5) Copies of the Presentence Report provided to the Court of Appeals by the Clerk shall include the Court's findings on unresolved objections.

Rule 32.3 Deletion of Challenged Statements in Presentence Reports

When, pursuant to Fed. R. Crim. P. 32(c)(3)(D)(ii), the Court determines that a particular statement contained in a presentence report is not relevant to sentencing and that, therefore, it is unnecessary to resolve a claim that the statement is factually inaccurate, the statement in question shall be deleted from the presentence report.

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Rule 32.4 Standard Conditions of Supervision

While the defendant is on probation or supervised release pursuant to the judgment of the Court, the defendant shall not commit another federal, state, or local crime.

In addition, the defendant shall comply with other conditions of probation or supervised release as adopted by the Court, the Administrative Office of the United States Courts, and the Judicial Conference of the United States. A copy of the standard conditions of supervision are available in the Clerk's Office and are attached as Appendix B to these Local Criminal Rules. These standard conditions of supervision are in addition to any other special conditions imposed by the Court.

Rule 32.1.1 Revocation of Probation or Supervised Release

At least 48 hours prior to the Revocation Hearing, the Probation Officer shall disclose the Violation Report and Supplemental Violation Reports, if any, to the defendant, counsel for the defendant, and the United States Attorney. The Probation Officer shall also inform the defendant that he or she has the right to counsel during any proceedings for violations of conditions of supervised release or probation.

CHAPTER VII
SUPPLEMENTARY AND SPECIAL PROCEEDINGS

[Reserved]

**CHAPTER VIII
GENERAL PROVISIONS**

Rule 46.1 Release of Bond

When a defendant has obtained his or her release by depositing a sum of money or other collateral as bond as provided by 18 U.S.C. § 3142, the payee or depositor shall be entitled to a refund or release thereof when the conditions of the bond have been performed and the defendant has been discharged from all obligations thereon. Defendant's counsel shall prepare a motion and proposed order for the release of bond and submit said motion to the Court for the Judge's signature. Unless otherwise specified by Court order, or upon such proof as the Court may require, all bond refunds shall be disbursed to the individual whose name appears on the Court's receipt for payment.

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Rule 49.1 General Format of Papers Presented for Filing

All pleadings, motions, and other documents presented for filing shall be on 8½ x 11 inch white paper of good quality, flat and unfolded and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double-spaced except for quoted material. Each page shall be numbered consecutively.

Only the original shall be filed. No duplicate of any document shall be accepted by the Clerk of Court, except upon written order of the Judge assigned to the case.

In instances wherein documents are being filed in consolidated or related cases, an additional copy shall be filed for each case number stated in the case caption. In the interest of completeness of the case files, the original document shall be placed in the lead case file and copies of the document shall be placed in each consolidated or related case file.

All documents presented for filing or lodging shall be pre-punched with two (2) normal-size holes (approximately 1/4 inch diameter), centered 2 3/4 inches apart, 1/2 to 5/8 inch from the top edge of the document.

The top margin of the first page of each document filed shall be three (3) inches for use by the Clerk to permit space for the file-stamp without stamping over case information. The title of the Court shall be centered below this 3-inch space.

Signatures on all documents submitted to the Court shall include the typewritten name, address, telephone number, facsimile number, e-mail address and the attorney's Ohio Bar Registration Number, if applicable.

This Rule does not apply to documents filed by pro se litigants.

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Rule 49.2 Filing by Facsimile

The Clerk's Office will not accept any facsimile transmission unless ordered by the Court.

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Rule 49.3 Designation of District Judge and/or Magistrate Judge

After the filing of the complaint, indictment, or information, all documents filed with the Clerk shall have the name of the District Judge and/or Magistrate Judge to whom the case has been assigned typed or printed immediately under the Court's docket number.

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Rule 49.4 Filing Documents Under Seal

No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents. If no statute, rule, or prior order authorizes filing under seal, the document will not be filed under seal.

Materials presented as sealed documents shall be in an envelope which shows the citation of the statute or rule or the filing date of the court order authorizing the sealing, and the name, address and telephone number of the person filing the documents.

If the sealing of the document purports to be authorized by court order, the person filing the documents shall include a copy of the order in the envelope. If the order does not authorize the filing under seal, or if no order is provided, the Clerk will unseal the documents before filing them. Before unsealing the documents, the Clerk will notify the person whose name and telephone number appears on the envelope in person (if he or she is present at the time of filing) or by telephone. The filer may withdraw the documents before 4:00 p.m. the day the Clerk notifies him or her of the defect. If not withdrawn, the documents will be unsealed and filed.

New cases submitted for filing without a signed sealing order will be assigned a new case number, District Judge and Magistrate Judge. The Clerk, without further processing, will send the file to the assigned District Judge for a sealing order. If a sealing order is signed, the Clerk will enter as much information as is permitted by the sealing order into the system to open and identify the case.

Thirty days after the termination of the case or any appeal, whichever is later, sealed documents and cases will be unsealed pursuant to court order, unless either a motion to continue the seal for a specified period of time or a motion to withdraw the documents is filed and granted by the Court.

Rule 53.1 Photography, Radio, and Television

(a) **General Provisions.** The taking of photographs in the courtroom or its environs, or radio or television broadcasting, or the use of equipment incident to radio or television broadcasting from the courtroom or its environs, during the progress of and in connection with judicial proceedings, both civil and criminal, whether or not court is actually in session, including proceedings before a Magistrate Judge or a session of the Grand Jury, is prohibited.

(b) **Definitions.** The term "environs" as used herein is defined as including certain property of the United States in the Northern District of Ohio, to wit: the "United States Court House and Federal Office Building" in Akron, Ohio; the "United States Courts and Customs House" in Cleveland, Ohio; the "United States Court House and Post Office" in Youngstown, Ohio; and the "United States Court House and Customs House" in Toledo, Ohio. Included in this definition are the buildings and all driveways and entrances into and exits from the said buildings, as well as the offices of the Clerk of Court, Probation offices, Pretrial Services, and offices of the United States Marshal, and all corridors, offices, rooms and other areas within these buildings. Not included within the definition of "environs" are the sidewalks adjacent to said buildings and a "press room" to be selected and designated by the Chief Judge, when requested, subject further to the supervision of the Judges of this Court, and then only upon the consent of the person or persons to be interviewed or photographed.

(c) **Recordings.** This Rule shall not prohibit recordings by a court reporter or other Court-designated representative; provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, the Court and counsel.

(d) **Proceedings Other Than Judicial Proceedings.** Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission and under the supervision of the Court.

(e) **Enforcement.** The United States Marshal is charged with the responsibility of taking necessary steps to enforce this Rule.

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Rule 55.1 Criminal Designation Forms

The United States Attorney shall file a criminal designation form with each new indictment or information. On this sheet the United States Attorney shall indicate the name and address of the defendant, the case category, and magistrate judge case number. The criminal designation form shall also contain any further information that is deemed pertinent by the Court or the Clerk. (See Appendix C.)

Rule 55.2 Withdrawal of Paper

No paper on file in this Court shall be temporarily withdrawn from the files for any purpose, unless by order of the Court, except for printing the Record on Appeal by a local printer. The Court may, in its discretion, prohibit any original papers from being taken from the files for the purpose of printing, and may require copies of such original papers be made for such purpose.

No paper shall be permanently withdrawn from the files except upon written order of the Court and the filing with the Clerk of (1) a duly certified copy of the paper so withdrawn and (2) a duly signed receipt of the party receiving the same. The party receiving such paper shall pay the fees for such certified copy and for the entry of the order.

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Rule 56.1 Hours for Filing

The Court shall be in continuous session for transacting judicial business on all business days throughout the year.

The Office of the Clerk shall be open for filing from nine o'clock a.m. to four o'clock p.m., Monday through Friday, at the locations of court, which are: Cleveland, Akron, Youngstown, and Toledo.

Emergency filings before or after the normal business hours will be permitted. The attorney of record for any party needing to make emergency filings between five o'clock p.m. and eight o'clock a.m., on weekends or on holidays may telephone the Court's Security Office which will contact a deputy clerk on duty. The number to call is (216) 522-2150.

Rule 57.1 Release of Information by Counsel

It is the duty of the lawyers associated with the prosecution and defense of a pending or imminent criminal case to refrain from releasing or authorizing the release of information or opinions related to the case if there is a reasonable likelihood that such release will interfere with a fair trial or otherwise prejudice the administration of justice.

The foregoing shall not preclude a lawyer, in the proper discharge of his or her duties, from announcing an arrest (including the name, age, and address of the subject) (including the place of arrest, resistance, pursuit, and the use of weapons), the identity of the investigating officer or agency, the length of the investigation, the announcement of the seizure of property or physical evidence other than a confession, a brief description of the offense charged, the penalty authorized by law, from quoting or referring to the public records of any stage of the judicial process, from requesting further assistance in obtaining judicial process, or from commenting that the accused denies the charges made against him or her. Counsel for the suspect/defendant shall not be precluded from responding appropriately to any such public information.

(a) During the trial of any criminal matter, including jury selection, no lawyer or law firm associated with the case shall give or authorize any interview or release of information relating to the trial, parties, or issues in the trial which would be expected to be disseminated by means of public communications media and reasonably likely to interfere with a fair trial, except that a lawyer may comment on public records of the Court and identify the stage of proceedings.

(b) After trial but prior to sentencing in any criminal matter, no lawyer or law firm associated with the case shall give or authorize any interview or release information which would be expected to be disseminated by means of public communications media concerning the sentencing, except that a lawyer may comment on the public records of the Court and identify the possible range of sentences.

(c) Nothing in this Rule is intended to preclude the formation of more restrictive rules relating to the release of information where the Court deems such restriction necessary. Furthermore, nothing in these Rules is intended to restrict argument of counsel in open court as to any matter addressed herein in the proper discharge of his or her duties, or to preclude the filing of documents, briefs, and motions as provided by law.

Nothing in this Rule shall preclude a lawyer from replying to charges of misconduct that are publicly made against that lawyer.

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Rule 57.2 Duties of Court Personnel

All courtroom and courthouse personnel, including but not limited to Marshals, Deputy Marshals, Court Clerks, Court Reporters, Probation Officers, Pretrial Service Officers, and other personnel, shall not disclose to any person, without authorization by the Court, information relating to a pending criminal case or matters pending before the Grand Jury if such information or matters are not a part of the public record of the Court.

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Rule 57.3 Courtroom and Courthouse Decorum

- (a) No loitering, sleeping, or disorderly conduct is permitted in any Court buildings.
- (b) No food, drink, cards, placards, signs or banners are permitted in any courtroom or adjoining areas, except as permitted by the Court.

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Rule 57.4 Security in the Courthouse

(a) The United States Marshal, the Federal Protective Service and any other federal security force are authorized to require all persons entering any United States District Court in the Northern District of Ohio to pass through an electronic metal detector before gaining access to the building or the corridors leading to the Judges' chambers. Whenever any person who activates the detector wishes to gain access to these areas, such person must submit to a reasonable, limited search of his or her person and property in order to determine the existence, if any, of explosive or dangerous weapons that might cause injury to persons or property.

(b) All packages, bags, parcels, and brief cases shall be submitted for magnetometer, x-ray, and/or manual inspection upon entry into any United States District Court in the Northern District of Ohio. Any person who refuses to allow such inspection shall be denied entrance.

(c) Except for the United States Marshal, the Marshal's deputies and designees, no one shall have an explosive, incendiary, deadly, or dangerous weapon on or about his or her person while inside any United States District Court in the Northern District of Ohio, unless such person is a federal law enforcement officer, or is a law officer of another jurisdiction who receives approval of the United States Marshal. This approval shall be accomplished by signing a register in the office of the United States Marshal on each day that the person enters the courthouse with a weapon. Such register will record the date, signature of the person carrying the weapon, destination in the courthouse, and a brief description of the weapon.

(d) The United States Marshal and any other federal security force authorized by law are directed to enforce this Rule and to take into custody any person violating its provisions. Such persons who commit any violation of this Rule while outside the confines of a courtroom or in a courtroom outside the presence of the Judge or Judges of such Court shall be brought before a Magistrate Judge without any unnecessary delay. Such persons who commit any violation of this Rule while within the confines of a courtroom in the presence of a Judge or Judges shall be brought before the Judge or Judges as directed without unnecessary delay.

Rule 57.5 Admission of Attorneys to Practice in the Northern District of Ohio

(a) **Roll of Attorneys.** The Bar of this United States District Court for the Northern District of Ohio consists of those admitted to practice before this Court who have taken the oath prescribed by the Rules in force when they were admitted or that prescribed by these Rules and who have signed the roll of attorneys of this district.

No person shall be permitted to practice in this Court or before any officer thereof as an attorney or to commence, conduct, prosecute, or defend any action, proceeding, or claim in which such person is not a party concerned, either by using or subscribing his or her own name or the name of any other person, unless he or she has been previously admitted to the Bar of this Court.

(b) **Bar Admission.** It shall be requisite to the admission of attorneys to practice in this Court that they shall have been admitted to practice in the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court shall be bound by the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of Ohio, so far as they are not inconsistent with federal law.

(c) **Local Office Requirement.** Unless otherwise ordered by the Court, it shall not be necessary for any attorney entitled to practice before the District Court or permitted to appear and participate in a case or proceeding to associate with or to designate an attorney with an office in this district upon whom notices, rulings, and communications may be served.

(d) **Admission by Clerk.** Each applicant shall file with the Clerk (1) a certificate from the presiding Judge or Clerk of the proper court evidencing the applicant's admission to practice there and that he or she is presently in good standing, (2) the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, which shall be endorsed by two members of the Bar of this Court who are not related to the applicant, and (3) evidence of attendance at a federal court seminar.

If the documents submitted by the applicant demonstrate that he or she possesses the necessary qualifications, the Clerk shall so notify or advise the applicant, and he or she may be admitted without appearing in Court by appearing at the Clerk's Office and signing the Roll of Attorneys. The applicant shall subscribe before any official authorized to administer the oath or affirmation set forth in this Rule.

(e) **Admission Upon Motion to the Court.** If the applicant so elects, rather than filing with the Clerk the certificate and statement required by subsection (d), he or she may be admitted by the

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Court on oral motion by a member of the Bar, provided that it appears from the motion or the statement of the applicant to the Court that he or she has satisfied the requirements of admission.

(f) **Oath or Affirmation.** Each applicant shall subscribe or take the following oath or affirmation, viz:

I, [Name] , do solemnly swear (or affirm) that as an attorney of this Court I will conduct myself uprightly, according to the law and the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of Ohio, so far as they are not inconsistent with Federal Law, and that I will support the Constitution and laws of the United States.

(g) **Admission and Fees.** All attorneys admitted to practice in this Court under this Rule shall pay to the Clerk the admission fee prescribed by the Judicial Conference of the United States and such other fees as may from time to time be required by General Order of this Court (such as a library fee).

(h) **Permission to Participate in Particular Case.** Any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion, be permitted to appear and participate in a particular case. A certificate of good standing from the aforementioned court(s) or an affidavit swearing to applicant's good standing must accompany the motion for admission pro hac vice. In addition to showing proof of good standing, any attorney moving for admission pro hac vice must contemporaneously provide his or her typewritten name, address, telephone number, facsimile number, e-mail address, and bar registration number.

(i) **Prerequisites of Practice.** After July 1, 1992, to be counsel of record in criminal cases in this District, counsel shall have been counsel of record in at least two criminal cases to which the federal sentencing guidelines were applicable, or shall have taken the Court's annual course on federal criminal procedure or have taken six (6) hours of CLE credits on federal criminal law and/or federal criminal trial procedure for that year.

(j) **Continuing Legal Education.** After July 1, 1992, and for each year thereafter, all counsel appearing as counsel of record in criminal cases shall, in addition to complying with Paragraph (i) above, have taken the Court's annual course on criminal law, or certify that they have taken six (6) hours of CLE credits on federal criminal law and/or federal criminal trial procedure for that year.

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(k) Change of Address. All attorneys admitted to practice in this Court are required to submit a written notice of a change of address to the Clerk upon the change in address.

Rule 57.6 Appearance and Practice by Law Students

Under the supervision of an attorney licensed to practice before this Court, a student who (1) is enrolled in a school of law accredited by the American Bar Association or holding membership in the Association of American Law Schools, and (2) has completed one-half of the credit hours required for graduation may, with the consent of the trial judge, participate as though he or she were a duly-licensed attorney in causes pending before this Court, to the extent authorized by this Rule. Such student participation shall be limited to the following situations:

(a) In all cases, parties to the litigation shall have advised the Court that they agree to the student's participation and that full explanation has been made of the student's status.

(b) In all cases, the student shall receive no compensation, directly or indirectly, for participation, other than the award of academic credit by the student's law school. This Rule shall not preclude a person who is salaried by a nonprofit agency (e.g., Legal Aid Office) from engaging in a student practice pursuant to this Rule.

(c) In criminal cases, a student may participate in prosecution as requested by the Office of the United States Attorney; a student may participate in defense as requested by attorneys representing defendants.

(d) In habeas corpus and post-conviction cases, a student may participate as requested by attorneys for petitioners; a student may participate on behalf of respondents as requested by respondent's counsel.

The term "supervision" as used in this Rule means the presence in Court during the student's participation of the attorney requesting his or her services, unless such attorney's absence is expressly authorized by the party whom he or she represents, the student, and the Judge.

The Judge before whom a student is participating may, at any time and with or without cause and for any reason, revoke the authorization established by this Rule.

Rule 57.7 Professional Conduct and Attorney Discipline

(a) **Standards for Professional Conduct.** All Attorneys admitted to practice in this Court shall be bound by the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of the State of Ohio, so far as they are not inconsistent with federal law (see LCrR 57.5(b) and (f)).

(b) **Failure to Comply.**

(1) For misconduct defined in this Rule, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances warrant.

(2) Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

(c) **Attorneys Specially Admitted.** Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged professional misconduct of that attorney.

(d) **Disciplinary Proceedings.**

(1) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court come to the attention of a Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by this Rule, the Judge shall refer the matter to the Court's Committee on Complaints and Policy Compliance ("the Committee"), with notification to the Clerk of Court, for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as is appropriate.

(2) If the Committee concludes after investigation, review and findings that a formal disciplinary proceeding should not be initiated against the respondent-attorney, the Committee shall file with the Court a recommendation for disposition of the matter by dismissal, admonition, referral, or otherwise.

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(3) To initiate formal disciplinary proceedings, the Committee shall issue by regular U.S. mail an order of this Court requiring the respondent-attorney to show cause as noticed why the attorney should not be disciplined.

(4) Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the matter shall be set for hearing before the Committee, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court who is a member of the Committee, that judge shall not participate in such hearing or in any action of this Court relative to said respondent-attorney.

(5) Counsel appointed pursuant to the authority set forth in section (f) of this Rule, *Discipline Imposed By Other Courts*, shall have the authority to investigate, prosecute before the Committee and otherwise assist the Committee in any matters involving a respondent-attorney.

(e) Attorneys Convicted of, Pleading Guilty or Nolo Contendere to Crimes.

(1) Serious Crimes

(a) If an attorney admitted to practice before this Court is found guilty by verdict at trial in any Court of record, or enters a plea of guilty or nolo contendere, to a serious crime, as herein after defined, the Chief Judge, on behalf of this Court, shall immediately enter an order of interim suspension of that attorney, regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall be served upon the attorney by regular U.S. mail. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

(b) The Court shall, in addition to ordering an interim suspension of that attorney, refer the matter to the Committee on Complaints and Policy Compliance for the institution of a disciplinary proceeding on behalf of the Court. The sole issue to be determined shall be the extent of the final discipline to be imposed. A disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

(2) Other Crimes

If an attorney admitted to practice before this Court is found guilty by verdict at trial in any Court of record, or enters a plea of guilty or nolo contendere to a crime not

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constituting a serious crime, the Court may refer the matter to the Committee on Complaints and Policy Compliance for whatever action the Committee deems warranted, including the institution of a disciplinary proceeding.

(3) The term “serious crime” shall include, but not be limited to, any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, tax evasion, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a “serious crime.”

(4) A certified copy of an official document from any Court of record indicating that the Court has found an attorney guilty by verdict or trial, or has accepted a plea of guilty or nolo contendere, for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney.

(5) An attorney suspended under the provisions of this Rule will be reinstated upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed. However, the reinstatement will not terminate any disciplinary proceeding then pending against the attorney.

(f) Discipline Imposed By Other Courts.

(1) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of record, promptly inform the Clerk of this Court of such action. If the Committee becomes aware of any public discipline to which any attorney admitted to practice before this Court is subjected, the Committee shall inform the Clerk of this Court.

(2) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall issue by regular U.S. mail a notice directed to the attorney containing:

(A) a copy of the judgment or order from the other Court; and

(B) an order to show cause directing that the attorney inform this Court of any claim by the attorney that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor. Upon the respondent-attorney’s answer to the order to show cause, if any issue of fact is raised or the respondent-

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attorney wishes to be heard in mitigation, the matter shall be set for hearing before the Committee.

(3) This Court may impose the identical discipline unless this Court finds that the imposition of the same discipline by this Court would result in grave injustice.

(4) In all other respects, a final adjudication in another Court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.

(5) This Court, acting through the Committee, may at any stage appoint counsel to prosecute the disciplinary proceedings.

(g) Disbarment on Consent or Resignation in Other Courts.

(1) Any attorney admitted to practice before this Court who is disbarred on consent or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending shall be stricken from the roll of attorneys admitted to practice before this Court upon the filing of a certified or exemplified copy of the judgment or order or upon notification by the attorney.

(2) It is the duty of any attorney admitted to practice before this Court who is disbarred on consent, or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending, to notify the Clerk of this Court of such disbarment.

(h) Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

(1) Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to the Clerk of this Court an affidavit stating that the attorney desires to consent to disbarment and that:

(A) the attorney's consent is freely and voluntarily given; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

(B) the attorney is aware that there is presently pending an investigation or proceeding involving allegations that grounds exist for the attorney's discipline, the nature of which the attorney shall specifically set forth;

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(C) the attorney acknowledges that the material facts alleged are true; and

(D) the attorney consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself or herself.

(2) Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

(i) Reinstatement.

(1) After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Clerk of Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court.

(2) Time of Application. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(3) Hearing on Application. Applications for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Clerk of Court. Upon receipt of the application, the Clerk shall refer the application to the Committee which shall schedule a hearing. At the hearing the attorney shall have the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest. If the disciplinary proceeding which led to the disbarment or suspension of the attorney was predicated upon the complaint of a Judge of this Court who is a member of the Committee, that Judge shall not participate in such hearing or in any action of this Court relative to said attorney.

(4) Duty of Counsel. In all proceedings upon an application for reinstatement, cross-examination of the witnesses of the attorney and the submission of evidence, if any, in opposition to the application shall be conducted by a member of the Committee, unless the Committee has appointed counsel in which case such cross-examination shall be conducted by that counsel.

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(5) Deposit for Costs of Proceeding. Applications for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceedings.

(6) Conditions of Reinstatement. If the attorney is found unfit to resume practice in this Court, the application shall be dismissed. If the attorney is found fit to resume practice in this Court, the judgment shall reinstate him/her, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the attorney whose conduct led to the suspension or disbarment. In addition, if the attorney has been suspended for two years or more or disbarred, reinstatement is conditioned upon the attendance of the attorney at a Federal Court Practice Seminar. If the attorney has been suspended for five years or more or disbarred, reinstatement may be conditioned upon furnishing proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(7) Successive Applications. No application for reinstatement under this Rule shall be filed within one year following an adverse judgment upon an application for reinstatement filed by or on behalf of the same attorney.

(j) Appointment of Counsel. Whenever counsel is to be appointed pursuant to this Rule to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement application filed by a disciplined attorney, this Court or the Committee may appoint as counsel the disciplinary agency of the Supreme Court of Ohio or other state or local disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or if the Committee determines it more appropriate, the Committee may appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under this Rule, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

(k) Service. Service of orders, notices or any other papers shall be made by regular U.S. mail addressed to the respondent-attorney at the last known office address of the respondent-attorney.

(l) Public Record. The general order disbaring, suspending, reprimanding or subjecting an attorney to other disciplinary action or reinstating an attorney shall be a matter of public record.

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All other records pertaining to attorney disciplinary action(s), which are not already public records, shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(m) Jurisdiction. Nothing contained in this Rule shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

(n) Applicability. This Rule shall apply only to disciplinary actions initiated on or after August 10, 1998.

Rule 57.8 Judicial Misconduct and Disability

(a) 28 U.S.C. § 372(c) provides a way for any person to complain about a Judge who the person believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or "is unable to discharge all the duties of office by reason of mental or physical disability." It also permits the judicial councils of the circuits to adopt rules for the consideration of these complaints. The Judicial Council of the Sixth Circuit has adopted "Rules of the Judicial Council of the Sixth Circuit Governing Complaints of Judicial Misconduct or Disability" under the authority of 28 U.S.C. § 372(c). A copy of these rules is on file with the Office of the Clerk.

(b) Pursuant to the rules adopted by the Judicial Council of the Sixth Circuit, complaints shall be filed with the Circuit Executive for the Sixth Circuit Court of Appeals on a form that can be obtained from that office.

Rule 57.9 Assignment of Cases

(a) Assignment. Subject to the latter provisions of this Rule, upon filing, each criminal case, shall be assigned by random draw to a District Judge. He or she shall continue in the case or matter until its final disposition. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

(1) With regard to all criminal proceedings in the Eastern Division of the Court, after each case is assigned by random draw to a District Judge, the Clerk shall immediately assign a Magistrate Judge to the case in accordance with orders of the Court.

(2) Preliminary matters in criminal cases, including but not limited to, the acceptance of criminal complaints and issuance of arrest warrants or summonses and applications for the issuance of search warrants, applications for seizure warrants, and applications for administrative inspection warrants, shall be presented by the applicant to the Magistrate Judge on warrant duty at the time of application, unless directly related to a matter previously considered by another Magistrate Judge, in which case the application shall be presented to such other Magistrate Judge.

(b) Reassignment. Cases shall be assigned other than by random draw only in the instances set forth in this paragraph. Such assignments shall be made by the Clerk in accordance with these Rules. When an additional assignment is thus made to a District Judge under any of the following sub-paragraphs, on the next draw by said District Judge of a case of the same category, that assignment shall be passed, and said case shall be reassigned to the District Judge whose card is next drawn in that category.

(1) **Disqualification.** Should a District Judge be disqualified from hearing a case assigned to him or her, the case shall be reassigned by random draw in the respective division.

(2) **Subsequent Proceedings.** Subsequent proceedings in criminal cases (including supervised release violations, probation violations and petitions under 28 U.S.C. § 2255) shall be assigned to the District Judge who heard the original case. In instances where the District Judge who heard the original case is no longer with the Court, the subsequent proceedings shall be assigned to an active District Judge in the respective division by random draw from the deck maintained for post-judgment matters. Whenever a new criminal case is filed contemporaneously with a subsequent proceeding against the same defendant, the subsequent proceeding shall be assigned pursuant to this paragraph and the new case shall be assigned separately pursuant to subsection (a) of this Rule.

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(3) Related cases. A case may be re-assigned as related to an earlier assigned case with the concurrence of both the transferee and the transferor District Judges, with or without a motion by counsel.

(4) Refiled Cases. If an action is discontinued and subsequently refiled, it shall be assigned to the same District Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel shall be responsible for indicating relatedness on the Criminal Designation Form (Appendix C).

When it becomes apparent to the District Judge to whom a case is assigned that the case was previously filed in this Court and assigned to another District Judge and was discontinued, the two District Judges shall sign an order reassigning the case to the District Judge who had been assigned the earlier case.

(5) Superseding Matters. An indictment or information which supercedes another shall be assigned to the District Judge to whom the superseded matter was assigned.

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Rule 57.10 Procedure for Assignment of Cases

The procedure for the assignment of cases shall be the same for the Eastern and Western Divisions. Each of the District Judges in the Eastern and Western Divisions shall be assigned an equal share of the cases filed in his or her division except that the Chief Judge shall be assigned a one-half (50 percent) share. This shall apply to criminal cases and to the miscellaneous docket.

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Rule 57.11 Categories of Criminal Cases

Depending upon the nature of the count (principal count if more than one count is in the indictment or information), each case shall be designated as within one of the following categories:

1. General Criminal
2. Misdemeanors

Upon the return of an indictment or the filing of a criminal information, each criminal case shall be assigned to the category indicated by the United States Attorney.

Rule 57.12 Preparation of Assignment Decks

For each of the Eastern Division Offices in Akron, Cleveland and Youngstown, the Clerk of Court shall cause to be created combined electronic decks of case assignment cards in the automated Case Assignment System for each of Criminal Categories 1 and 2. For Criminal Category 1, two separate case assignment decks will be maintained. The first Category 1 deck will be used for the assignment or reassignment of any criminal action with four or less defendants. The second Category 1 deck will be used for the assignment or reassignment of any criminal action with five or more defendants.

For the Western Division, the Clerk of Court shall cause to be created separate electronic decks of case assignment cards in the automated Case Assignment System for each of Criminal Categories 1 and 2. For Criminal Category 1, two separate case assignment decks will be maintained. The first Category 1 deck will be used for the assignment or reassignment of any criminal action with four or less defendants. The second Category 1 deck will be used for the assignment or reassignment of any criminal action with five or more defendants.

The electronic cards comprising each deck category will contain the category number and the name of a District Judge. The name of each District Judge shall appear on that number of cards in the electronic deck that corresponds to the share of cases assigned to that District Judge pursuant to Local Criminal Rule 57.10.

The cards making up a deck shall be electronically shuffled so that the sequence will be entirely by chance, and the cards shall be concealed so that the name of the District Judge will not be known until the card is drawn. Relying on the indicated category of the case and selecting the appropriate deck the Assignment Clerk shall randomly select a card from the deck of that category. The case shall be assigned to the District Judge whose name appears on the draw card. New decks of cards shall be prepared by the Clerk from time to time, as herein described, unless otherwise instructed by the Court.

Decks for each category of criminal cases shall be replenished as soon as the decks are depleted.

The Assignment Clerk shall mark, on the first document of the case, the next consecutive case number and the name of the District Judge to whom the case is assigned. A record of all assignments made shall be kept by said Clerk. Reports of case assignments shall be made available to the Court upon request.

Rule 57.13 Duties of the Clerk as to Case Assignments

The random electronic shuffling of the electronic assignment cards and the concealment of these cards in separate decks shall be administered by the Clerk. The Clerk shall not reveal the sequence of the electronic cards to anyone, unless ordered to do so in the presence of the Judges at a regularly scheduled meeting.

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Rule 57.14 Assignments to Senior Judges

The Chief Judge shall, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, assign to each Senior Judge a substantial amount of the business of the District Court during the period in which each Senior Judge is duly authorized or designated to hear cases.

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Rule 57.15 Reassignment of Matters to Active Judges

All newly filed motions or other matters requiring action by the Court in cases which were originally assigned to District Judges who are no longer serving on the District Court shall be reassigned by random lot to an active District Judge.

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Rule 57.16 Place of Holding Court

The Chief Judge, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, may designate and assign any District Judge of the District to any place of holding court or division within the District whenever the business of such place or division so requires.

Rule 57.17 Miscellaneous Docket

Each District Judge in the Eastern and Western Divisions shall take charge of the miscellaneous docket in his or her division for a period of time and in such order or rotation as recommended by the appropriate Committee of the Court and approved by a majority of the active District Judges. A District Judge in charge of the miscellaneous docket who becomes unavailable shall arrange for another District Judge to take charge of the docket and notify the Clerk of Court in writing of the name of the District Judge who will take charge of the docket while the District Judge is unavailable. The miscellaneous docket shall include the following matters:

- (a) Supervision of the Grand Jury and all matters, except for the impaneling, arising therefrom;
- (b) Responsibility for all matters relating to naturalization;
- (c) Admission of attorneys to the Bar of this Court; and
- (d) Consideration of all other miscellaneous matters not otherwise provided for in these Rules.

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Rule 57.18 Unavailability of Judge -- Urgent Cases

Should it appear that any matter requires urgent and immediate attention and the District Judge to whom said case has been assigned, or in the usual course would be assigned, is not or will not be available and said District Judge has not arranged for an alternate to handle such matters in his or her absence, then the Clerk of Court shall refer the matter to the District Judge on miscellaneous duty rotation, if available, or to the next available District Judge on regular, active duty who has precedence.

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Rule 57.19 Procedure as to Initial Papers

All initial papers in criminal cases shall be first filed in the Office of the Clerk, who shall stamp on the indictment, information, complaint, petition, or other initial paper of every case to be filed the number of the case and the name of the District Judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is commenced.

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Rule 57.20 Orders for Transcripts from Official Court Reporters

(a) All requests for transcripts from any proceeding held in the United States District Court for the Northern District of Ohio shall be in writing and addressed to the court reporter who took the proceeding, with a copy of such request filed with the Clerk of Court. (See Appendix D.)

(b) Transcripts provided for parties proceeding under the Criminal Justice Act and to parties granted leave to proceed in forma pauperis in habeas corpus proceedings are to be paid for from funds appropriated for this purpose. A CJA 24 form, available from the Clerk's Office, must be used to obtain these transcripts.

(c) A copy of a transcript shall not be represented as an official transcript of a Court proceeding unless it has been certified by a court reporter or electronic court reporter operator of the Northern District of Ohio.

(d) Rates charged for transcripts will be those charged by the Judicial Conference of the United States. The schedule of rates is posted in the Office of the Clerk.

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Rule 57.21 Withdrawal of Counsel

The attorney of record may not withdraw, nor may any other attorney file an appearance as a substitute for the attorney of record, without first providing written notice to the client and all other parties and obtaining leave of Court. Attorneys from the same firm may file and serve a notice of appearance or substitution for the attorney of record without obtaining leave of Court.

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Rule 58.1 Assignment and Referral of Misdemeanor Cases to United States Magistrate Judges

All misdemeanor cases shall be assigned by the Clerk, upon the filing of an information, complaint, or violation notice, or the return of an indictment, to a Magistrate Judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and the Rules of Procedure for the Trial of Misdemeanors Before United States Magistrate Judges.

Rule 58.2 Forfeiture of Collateral in Lieu of Appearance Before a United States Magistrate Judge

(a) **General.** Collateral may be posted in lieu of the appearance of the offender for petty offenses, as listed by an order of Court, occurring within the territorial jurisdiction of the Magistrate Judges. All petty offenses occurring in the Cuyahoga Valley National Recreation Area shall be treated as being within the territorial jurisdiction of the Magistrate Judge sitting at Akron, Ohio. All petty offenses occurring in the U.S. Lima Army Tank Plant shall be treated as being within the territorial jurisdiction of the Magistrate Judge sitting at Toledo, Ohio. Any person to appear before a Magistrate Judge for trial of a petty offense as listed in an order of Court as hereinbefore mentioned may post collateral. The posting of said collateral shall signify that the offender neither contests the charge nor requests a hearing before a designated Magistrate Judge. The failure of such offender to appear for trial on a petty offense shall result in the forfeiture to the United States of the posted collateral in the amount specified by order of Court. Any such forfeiture shall be tantamount to a finding of guilty.

(b) **Prohibitions.** No forfeiture will be permitted on a petty offense for any violation contributing to an accident with personal injury in excess of One Hundred Dollars (\$100.00) or for any other violations specified by order of Court as requiring an appearance by the alleged violator.

(c) **Orders of Court.** The general orders of the Court containing a list of violations and the collateral that may be posted in lieu of appearance, as well as those with respect to which an appearance is mandatory, are available at the Office of the Clerk upon request.

(d) **Federal Regulations.** Whenever the regulations of any federal agency are amended so as to affect the application of this Rule, such agency shall, by the fifteenth of January of the year following, submit for the Court's consideration a complete new schedule of that agency's petty offenses reflecting any changes or additions made necessary by such amendments to its regulations.

(e) **Central Violations Bureau.** The administrative and fiscal operations of the Central Violations Bureau are consolidated with the Central Violations Bureau of the United States District Court for the District of Colorado. The operation of the Central Violations Bureau for this District shall be maintained by said United States District Court for the District of Colorado pursuant to the laws of the United States of America and the general orders pertaining to forfeiture of collateral entered by this Court.

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Rule 58.3 Review and Appeal of Misdemeanor Cases

A defendant may appeal a judgment of conviction by a Magistrate Judge in a misdemeanor case by filing a statement of appeal with the Clerk of Court within ten (10) days after entry of the judgment pursuant to Fed. R. Crim. P. 58(g)(2), and by serving a copy of the statement upon the United States Attorney and the Magistrate Judge. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals. Such appeals shall be assigned to District Judges by random draw and shall be given a criminal case number by the Clerk.